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EXAMINER	
WOMACK, DOMINIQUE A	
ART UNIT	PAPER NUMBER
4132	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/517,235	VANGEDAL-NIELSEN, ERLING	
	Examiner	Art Unit	
	DOMINIQUE WOMACK	4132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3 and 28-51* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3 and 28-51* is/are rejected.

7)☒ Claim(s) *2-3, 38, and 43* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *20050204*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: The Danish patents, No. PR 172.066 and No. PR 172.638, which are referred to several times throughout the specification, could not be found. The country code PR does not exist.

2. The specification does not contain section headings. Please see guidelines below.

Appropriate correction is required.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
(f) BACKGROUND OF THE INVENTION.
    (1) Field of the Invention.
    (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
(g) BRIEF SUMMARY OF THE INVENTION.
(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
(i) DETAILED DESCRIPTION OF THE INVENTION.
(j) CLAIM OR CLAIMS (commencing on a separate sheet).
(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

3. The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

4. The specification includes several attempts to incorporate essential material by reference from a foreign patent document (Danish Patent PR 172638, International Patent Application WO 99/32840 and European Patent Application 0927859) (pg 10, lines 10-20). The technical advantage of the tearing technique and other aspects of the design of the bag are improperly incorporated by reference according to U.S. practice. Appropriate correction is required.

Claim Objections

5. Claim 3 is objected to because of the following informalities: The phrase "in the inner chamber" on lines 2-3 appears to be a typographical error It is believed to be a duplicate of "in the inner chamber" which appears at the beginning of line 2. Appropriate correction is required.

6. Claim 36 is objected to because of the following informalities: The word "is" is not grammatically correct. It is believed that this word should be "are". Appropriate correction is required.

7. Claim 49 is objected to because of the following informalities: The word "shen" is misspelled. It is believed that this word should be “then”. Appropriate correction is required.

8. Claims 43 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 43 does not further limit the scope of Claim 42. The layers of the pre-filled ice bag according to claim 42 are made of the same foil material. Claim 43 calls for these same layers to be made from different material which would no longer make it the pre-filled ice bag of claim 42.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-3 and 28-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Regarding claim 1, it is unclear what is meant by the limitation “freezable material”. Is the freezable material contained in the pre-filled ice cube bag in a frozen or non-frozen condition? For the purposes of examination, the freezable material will be considered to be contained in a non-frozen condition.

12. In lines 18-20 of claim 1, it is unclear which recited range is being claimed. The applicant recites the ranges 80%-95%, 85%-87%, 87%-89% or 89%-91%, which are broader or narrower in scope than the first recited range of 80%-91%.

13. In claim 2, the applicant recites that the freezable material is contained in the pre-filled ice cube bag in an evacuated condition in the inner chamber. In claim 1, the applicant states that the freezable material constitutes a filling of more than 95% of the inner chamber. It is unclear how said freezable material can be contained in an evacuated condition in the inner chamber if the freezable material is to constitute no less than 95% of the inner volume of the inner chamber.

14. Regarding claim 28, the recitation "and/or" renders the claim indefinite. It is unclear whether said freezable material is filled into the ice cube bag under bacteria free, hygienic **and** sterile conditions, or whether said freezable material is filled into the ice cube bag under bacteria free, hygienic, **or** sterile conditions.

15. Regarding claims 1, 28, 29, 30, 31, 34, 35, 37, 50 and 51, the phrase "such as" and/or "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). These claims will be examined with regard to their broadest limitation.

16. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim

indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949).

17. In the present instance, claim 1 recites the broad recitation "a surface area of a minimum of 75 cm^2" in line 4, and the claim also recites "such as 75-150 cm^2, 150-300 cm^2, 300-600 cm^2, 600-1200 cm^2 or 1200-2400 cm^2" which is the narrower statement of the range/limitation. In line 5, claim 1 recites the broad recitation "an area between 75 cm^2 and 2400 cm^2" and the claim also recites "such as 150 and 1200 cm^2" which is the narrower statement of the range/limitation. In lines 5-6, claim 1 recites the broad recitation "such as 150 and 1200 cm^2" and the claim also recites "such as 150 and 600 cm^2" which is the narrower statement of the range/limitation. In line 12, claim 1 recites the broad recitation "not less than 0.5 m water column pressure" and the claim also recites "preferably 0.5-1 m or 1-1.5 m or 1.5-2 m water column pressure" which is the narrower statement of the range limitation. In line 15, claim 1 recites the broad recitation "volume of a minimum 50 cm^3" and the claim also recites "such as 50-100 cm^3, 100-200 cm^3, 200-300 cm^3, 300-400 cm^3, 400-500 cm^3, 500-1000 cm^3 or 1000-2000 cm^3" which is the narrower statement of the range limitation. In line 16, claim 1 recites the broad recitation "between 50 and 2000 cm^3" and the claim also recites "such as 100-1000 cm^3, preferably between 100 and 500 cm^3" which is the narrower statement of the range limitation. In line 18, claim recites the broad recitation "no less than 80% of said inner volume… but less than 91%"

and the claim also recites “85%-87%, 87%-89% or 89%-91%” which is the narrower statement of the range limitation.

18. Claim 28 recites the broad recitation “water” in line 2, and the claim also recites "preferably mineral water and mainly bacteria free mineral water” which is the narrower statement of the range/limitation. In addition, claim 28 recites the broad recitation “aqueous foodstuff’ in line 4, and the claim also recites "such as pasty material, e.g. ice cram, egg yolks, egg whites, cream, sauce, fruit juice, fruit puree, dairy products” which is the narrower statement of the range/limitation. Also, claim 28 recites the broad recitation “dairy products” in line 5, and the claim also recites “such as milk, yoghurt or the like” which is the narrower statement of the range/limitation.

19. Claim 29 recites the broad recitation “sub-volume which does not exceed 25 cm^3” in line 2, and the claim also recites "preferably not exceeding 20 cm^3 or additionally preferably is of the order 10 cm^3” which is the narrower statement of the range/limitation.

20. Claim 30 recites the broad recitation “produced from polyethylene” in line 2, and the claim also recites “preferably LDPE, MDPE or HDPE” which is the narrower statement of the range/limitation.

21. Claim 31 recites the broad recitation "gas proof packaging" in line 2, and the claim also recites "preferably a gas proof plastic bag" which is the narrower statement of the range/limitation. In line 3, claim 31 recites "preferably a gas proof plastic bag" and the claim also recites “such as a plastic bag produced from PA, PP, laminated or co-extruded plastic foils or metallized PE or PVC" which is a narrower statement of the range/limitation.

22. Claim 34 recites the broad recitation “a number of pre-filled ice cube bags” in line 2, and the claim also recites "such as 2, 4, 6, 8, 10 or 12" which is the narrower statement of the range/limitation.

23. Claim 35 recites the broad recitation "larger than 2" in line 2, and the claim also recites "preferably 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 30, 36 or 48, preferably 24" which is a narrower statement of the range/limitation.

24. Claim 50 recites the broad recitation “the area of 0.0025mm and 0.5mm” in line 4, and the claim also recites “preferably within the area of 0.125mm and 0.375mm” which is the narrower statement of the range/limitation. Furthermore, claim 50 recites the broad recitation “the area of 0.125mm and 0.375mm” in line 4, and the claim also recites "such as approximately 0.25mm" which is the narrower statement of the range/limitation.

25. Claim 51 recites the broad recitation "diameter between 0.1 and 5mm” in line 3, and the claim also recites “such as 0.5 mm and 1.5 mm, preferably between 0.9 mm and 1.0 mm, such as between 0.5 and 0.8 mm, between 0.8 mm and 1 mm, between 1 5 mm and 1.2 mm or between 1.2 mm or 1.5 mm” which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

27. Claims 1, 3, 28, and 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vangedal-Nielson [U.S. Pat. No 6,322,044] in view of Vangedal-Nielson [U.S. Pat. No 4,181,285] and Shing-Hsiung [GB Pat No. 2,046,891].

28. Regarding claims 1 and 3, Vangedal-Nielson '044 discloses an ice cube bag comprising two sheet-shaped foil layers having substantially identical geometry configurations and defining an outer periphery (col. 36, lines 23-26).

29. Since Vangedal-Nielson '044 discloses that the length of foil layer=38.5 cm and the width of foil layer=18cm and since surface area=length x width, the two sheet-shaped foil layers each define a surface area of 693 cm^2 (col. 34, lines 46-50).

30. Vangedal-Nielson '044 further discloses an ice cube bag comprising, a peripheral joint extending along the outer periphery of said foil layers wherein said peripheral joint joins together the two foil layers. The foil layers are mainly overlapping each other and are defining a inner chamber in the interior of the ice cube bag. This inner chamber is divided into several ice cube compartments (col. 36, lines 27-34).

31. Vangedal-Nielson '044 discloses that an embodiment of the ice bag was distended (inflated) as the ice cube bag was filled. This distention was necessary to test the bag to see what maximum force can be applied to the structure of the bag. It was found that the bag of Vangedal-Nielson '044 can resist a pressure of 0.9 m water column pressure (col. 35, lines 6-30).

32. Vangedal-Nielson '044 also discloses that his embodiment of an ice cube bag may hold a liquid volume of 480 g which is equivalent to a volume of 480 cm^3 (col. 3, lines 39-42). It is understood that the liquid volume is only contained in the inner volume of ice cube bag.

33. Regarding claim 1, Vangedal-Nielson '044 does not disclose a sealed inner chamber, a bag which hermetically contains freezable material and what percent of freezable material constitutes the filling of the ice cube bag.

34. Regarding claim 3, Vangedal-Nielson '044 does not disclose freezable material contained in the pre-filled ice cube bag in a non-evacuated condition.

35. Vangedal-Nielson '285 discloses that freezing mould bags designed for self-filling are well suited to be sold in a pre-filled condition. The freezing mould bags can be pre-filled with liquid and sealed on the manufacturing site (col. 6, lines 32-36).

36. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to seal the ice cube bag of Vangedal-Nielson '044 as taught by Vangedal-Nielson '285 in order to hermetically seal the freezable material within the bag. It is understood that in order to seal the bag of Vangedal-Nielson '044, the inner chamber must be sealed. One of ordinary skill in the art would be motivated to use a sealed, pre-filled ice cube bag because this type of bag can be marketed as "freeze-it-yourself" bags.

37. Shing-Hsiung relates to an invention for making ice balls by placing a predetermined amount of liquid in bags made of stretchy or elastic material.

38. Shing-Hsiung discloses that cool water is poured in the bag body to fill it to about 90% of its total capacity (lines 51-63). There is no mention of the bag being sealed so the remainder of the bag is inherently filled with air (Figure 2). This means that the liquid is contained in the bag in a non-evacuated condition.

39. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the ice cube bag of Shing-Hsiung to the ice cube bag of Vangedal-Nielson '044 in view of

Vangedal-Nielson '285 in order to create an ice cube bag containing a pre-determined amount of freezable material. One of ordinary skill in the art would be motivated to fill the ice cube bag with a pre-determined amount of freezable material because this would prevent the bag from breaking during the freezing process.

40. Regarding claim 28, Vangedal-Nielson '044 discloses an ice cube bag that is filled with water (col. 16, lines 63-65).

41. Regarding claim 35, Vangedal-Nielson '044 discloses an ice cube bag where the number of ice cube compartments in the inner chamber of said ice cube bag is greater than 2 (claim 12).

42. Regarding claim 36, Vangedal-Nielson '044 discloses an ice cube bag wherein said ice cube compartments are separated into separate subchambers (claim 13).

43. Regarding claim 37, Vangedal-Nielson '044 discloses eight ice cube compartments that are divided by four sets of horizontal point weldings (col. 15, lines 52-67).

44. Regarding claim 38, Vangedal-Nielson '044 discloses an ice cube bag where the peripheral and separate joints are all constituted by glueings or molding (claim 7).

45. Regarding claim 39, Vangedal-Nielson '044 discloses an ice cube bag comprising individual joints that have a configuration selected from the group consisting of circles, ellipses, line-segments, triangles, rectangles, squares, polygons, and arbitrary convex or concave contours (claim 8).

46. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vangedal-Nielson [U.S. Pat. No 6,322,044] in view of Vangedal-Nielson [U.S. Pat. No 4,181,285] in view of

Shing-Hsiung [GB Pat No. 2,046,891], and further in view of Folkmar [U.S. Pat. App. 2002/0153468].

47. Vangedal-Nielson '044 in view of Vangedal-Nielson '285 and Shing-Hsiung are relied upon above with respect to claim 1.

48. Vangedal-Nielson '044 in view of Vangedal-Nielson '285 and Shing-Hsiung fail to teach a pre-filled ice cube bag where the freezable material is contained in an evacuated condition in the inner chamber.

49. Folkmar teaches that a bag for forming ice cubes may be filled to any desired extent with liquid and any air within that bag can be totally expelled by squeezing the sides of the bag before sealing (pg. 2, ¶ 14). It would have been obvious to one of ordinary skill in the art, at the time of the invention to evacuate bag the ice bag of Vangedal-Nielson '044 in view of Vangedal-Nielson '285 in further view of Shing-Hsiung, as taught by Folkmar, in order to have the freezable material contained in the inner chamber in an evacuated condition. One of ordinary skill in the art would be motivated to evacuate the ice bag because removing the air from the bag ensures that size of the individual ice cubes is maximized and that the freezable material has room to expand within the compartments.

50. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vangedal-Nielson [U.S. Pat. No 6,322,044] in view of Vangedal-Nielson [U.S. Pat. No 4,181,285] and Shing-Hsiung [GB Pat No. 2,046,891] as applied to claim 28 above, and further in view of Cederroth [U.S. Pat. No. 5,393,032].

51. Vangedal-Nielson '044 in view of Vangedal-Nielson '285 and Shing-Hsiung are relied upon above.

52. Regarding claim 29, Vangedal-Nielson '044 in view of Vangedal-Nielson '285 and Shing-Hsiung fail to teach a pre-filled ice cube bag that has ice cube compartments with a volume that doesn't exceed 25 cm^3.

53. Cederroth discloses a pre-filled ice cube tray that has cavities designed to form ice cubes. These cavities have a volume of 27mm by 27 mm by 27 mm or 19683mm^3 or 19.683 cm^3 (col. 5, lines 23-28). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to create a pre-formed cavity having a volume less than 25cm^3 in order to have ice cubes of a uniform size. One of ordinary skill in the art would be motivated to add the pre-formed cavity having a volume less than 25cm^3 to the ice cube bag of Vangedal-Nielson '044 in view of Vangedal-Nielson '285 and Shing-Hsiung because the uniform size of the ice cube compartments ensures each ice cube will be able to fit into normal size drinking glasses (Cederroth col. 5, lines 22-25).

54. Regarding claim 30, Vangedal-Nielson '044 discloses an ice cube bag that may be "produced from a plastics foil material, especially polyethylene, preferably LDPE or HDPE or another glueable or weldable foil material, preferably plastics or polymer foil material or aluminum foil material or combinations of such foil materials, e.g. plastics coated aluminum foil material" (col. 5, lines 13-19).

55. Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vangedal-Nielson [U.S. Pat. No 6,322,044] in view of Vangedal-Nielson [U.S. Pat. No 4,181,285], Shing-Hsiung [GB Pat No. 2,046,891], and Cederroth [U.S. Pat. No. 5,393,032] as applied to claim 30 above, and further in view of Moore [U.S. Pat. App. No. 20002/0050150].

56. Vangedal-Nielson '044 in view of Vangedal-Nielson '285, Shing-Hsiung, and Cederroth are relied upon above.

57. Vangedal-Nielson '044 in view of Vangedal-Nielson '285, Shing-Hsiung, and Cederroth fail to teach enclosing the pre-filled ice cube bag in an external gas proof packaging and where the package is air filled.

58. Moore discloses an external packaging for disposable packages designed to hold frozen substances (¶ 43). The external packaging is made from a polymeric material, such as polyethylene and the package is sealed (¶ 43 & Fig. 6). The external packing contains air (Fig. 8). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the gas proof packaging of Moore to the ice cube bag of Vangedal-Nielson '044 in view of Vangedal-Nielson '285, Shing-Hsiung, and Cederroth in order to package the pre-filled ice cube bags. One of ordinary skill in the art would be motivated to include gas proof packaging of Moore as a exterior package for the ice cube bag of Vangedal-Nielson '044 in view of Vangedal-Nielson '285, Shing-Hsiung, and Cederroth because the gas proof packaging keeps the freezable material fresh before consumption by protecting the freezable material from contamination.

59. Claims 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vangedal-Nielson [U.S. Pat. No 6,322,044] in view of Vangedal-Nielson [U.S. Pat. No 4,181,285], Shing-Hsiung [GB Pat No. 2,046,891], Cederroth [U.S. Pat. No. 5,393,032], and Moore [U.S. Pat. App. No. 20002/0050150] as applied to claim 31 above, and further in view of in Howard et al. [U.S. Pat. No. 5,332,587].

60. Vangedal-Nielson '044 in view of Vangedal-Nielson '285, Shing-Hsiung, Cederroth and Moore are relied upon above.

61. Vangedal-Nielson '044 in view of Vangedal-Nielson '285, Shing-Hsiung, Cederroth and Moore fail to teach a sealed gas proof packaging that is evacuated.

62. Howard et al. discloses an embodiment of a package for pasta in which the pasta is contained in an evacuated condition in a pouch made of plastic materials (col. 9, lines 49-52 and lines 65-66). It would have been obvious to one of ordinary skill in the art, at the time of the invention to evacuate the into gas proof packaging of Vangedal-Nielson '044 in view of Vangedal-Nielson '285, Shing-Hsiung, Cederroth and Moore, as taught by, Howard et al. in order to package the ice cube bags under a vacuum. One of ordinary skill in the art would be motivated to evacuate the gas-proof packaging of Vangedal-Nielson '044 in view of Vangedal-Nielson '285, Shing-Hsiung, Cederroth and Moore because Howard et al. shows that using a sealed bag in an evacuated condition helps create a package with shelf-stability and extended life (col. 9, lines 33-40) .

63. Regarding claim 34, Moore discloses an external packaging that can hold a number of disposable packages designed to hold frozen substances (¶ 44).

64. Claims 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vangedal-Nielson [U.S. Pat. No 6,322,044] in view of Vangedal-Nielson [U.S. Pat. No 4,181,285] and Shing-Hsiung [GB Pat No. 2,046,891] as applied to claim 39 above, and further in view of Folkmar [EP 0106139].

65. Vangedal-Nielson '044 in view of Vangedal-Nielson '285 and Shing-Hsiung are relied upon above.

66. Regarding claim 40, Vangedal-Nielson '044 fail to teach a plane or area shaped joint that has a central non-joined area.

67. Folkmar relates to a disposable bag that can be used to make ice lollies. The ice mold bag of Folkmar includes welds that have a central-non joined area (Fig. 11). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate the weld of Hansen into the ice cube bag of Vangedal-Nielson '044 in view of Vangedal-Neilson and Shing-Hsiung because in order to create an ice cube bag with different style weldings. One of ordinary skill in the art would be motivated to use that style of weld with a central non-joined portion in the invention of Vangedal-Nielson '044 in view of Vangedal-Nielson '285 and Shing-Hsiung because this style of weld creates a bag that is partly welded together so the cavities are interconnected (Folkmar, claim 1). These interconnected cavities can be filled by pouring the freezable material into one cavity, thereby saving production.

68. Regarding claim 41, Vangedal-Nielson '044 discloses an ice cube bag that is made of two sheet-shaped foil layers that are mainly rectangular (claim 14).

69. Regarding claims 42 and 43, Vangedal-Nielson '044 discloses an ice bag that can be made of two foils of the same of different type or different thickness (col. 36, lines 17-21) It is noted that the reference recites the word "to" which is a typo. It is understood that the word should be "two" since the invention is directed to an ice bag made of two sheet-shaped foil layers (see claim 1).

70. Claims 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vangedal-Nielson [U.S. Pat. No 6,322,044] in view of Vangedal-Nielson [U.S. Pat. No 4,181,285] , Shing-Hsiung [GB Pat No. 2,046,891] and Folkmar [EP 0106139] as applied to claim 43 above, and further in view of Cederroth [U.S. Pat. No. 5,393,032].

71. Vangedal-Nielson '044 in view of Vangedal-Neilson '285 and Shing-Hsiung and Folkmar are relied upon as above.

72. Vangedal-Nielson '044 in view of Vangedal-Neilson '285, Shing-Hsiung, and Folkmar fail to teach an ice cube bag with pre-shaped recesses corresponding to individual ice cube compartments.

73. Cederroth discloses an ice cube tray that has pre-formed cavities (col. 5, lines 12-15) and has a cover. The cover is thinner than the ice cube tray (col. 5 lines 62-64 & col. 6, lines 55-60). It would have been obvious to one of ordinary skill in the art to add a cavity recess to one side of the ice cube bag of Vangedal-Nielson '044 in view of Vangedal-Nielson '285, Shing-Hsiung, and Folkmar in order to have preformed compartments for the freezable material. One of ordinary skill in the art would be motivated to have preformed cavities because the pre-shaping of the ice cube compartment ensures each ice cube will be able to fit into normal size drinking glasses (Cederroth col. 5, lines 22-25).

74. Claims 45-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vangedal-Nielson [U.S. Pat. No 6,322,044] in view of Vangedal-Nielson [U.S. Pat. No 4,181,285], Shing-Hsiung [GB Pat No. 2,046,891], Folkmar [EP 0106139] and Cederroth [U.S. Pat. No. 5,393,032] as applied to claim 45 above, and further in view of Bell [U.S. Pat. No. 5,709,479].

75. Vangedal-Nielson '044 in view of Vangedal-Neilson '285, Shing-Hsiung, Folkmar, and Cederroth are relied upon above.

76. Regarding claims 46 and 47, Vangedal-Nielson '044 in view of Vangedal-Neilson '285, Shing-Hsiung, Folkmar, and Cederroth fail to disclose an ice cube bag with an extension formed

into a gripping flap, said gripping flap comprising an aperture for the manipulation of the ice cube bag.

77. Bell discloses a sealed pouch for flowable material where the two sheets that made up the pouch are extended above a seal (Fig. 6, #63) and an hole is cut in the extension to serve as a handle for carrying the pouch (col. 4, lines 42-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the extension and hole of Bell to the ice cube bag of Vangedal-Nielson '044 in view of Vangedal-Neilson '285, Shing-Hsiung, Folkmar, and Cederroth in order create a handle in the ice cube bag. One of ordinary skill in the art would be motivated to include a handle because a handle would allow for easy manipulation of the flowable material inside the bag as shown by Bell (col. 4, lines 47-55).

78. Regarding claim 48, Vangedal-Nielson '044 discloses an ice cube bag with individual joints that establish a connection between two-sheet shaped foil layers with such a joining strength and with such a limited area of extension that said individual join is not broken when said foil layers are exposed to a separation force, but provides a tearing apart of perforation in one of the said foil layers along the periphery of said individual joints (col. 38, lines 8-15).

79. Regarding claim 49, Vangedal-Nielson '044 discloses an ice cube bag that has individual joints which are positioned in such a mutual distance that when one of said foil layers is torn apart or perforated, said individual joints provide directions for a perforation line in one of said foil layers (col. 38, lines 17-20).

80. Regarding claim 50, Vangedal-Nielson '044 discloses an ice cube bag wherein the factor calculated as the area of one of said individual joints expressed in square millimeters divided by

the circumference or perimeter of the same joint measured in millimeters lies within the range 0.025 mm to 0.5mm (col. 38, lines 26-30).

81. Regarding claim 50, Vangedal-Nielson '044 discloses an ice cube bag wherein each of said individual joints has an area extension corresponding to the area of a circle having a diameter between 0.1mm and 5mm.

Conclusion

82. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIQUE WOMACK whose telephone number is (571)270-7366. The examiner can normally be reached on Monday-Thursday, 8:00am-5:00pm.

83. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike LaVilla can be reached on 571-272-1539. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

84. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DOMINIQUE WOMACK/
Examiner, Art Unit 4132
10/26/08

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